



C.M.A.Nos.1451 to 1453 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2023

Coram

The Honourable Mr.Justice **KRISHNAN RAMASAMY**

C.M.A.Nos.1451 to 1453 of 2014
and M.P.Nos.1 to 1 of 2014 in C.M.A.Nos.1451 to 1453 of 2014

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Villupuram Division,
Villupuram.

...Appellant in all C.M.As

Versus

Ramadoss

...1st Respondent in C.M.A.No.1451 of 2014

Palani

...2nd Respondent in C.M.A.Nos.1451 & 1453 of 2014
& 1st Respondent in C.M.A.No.1452 of 2014

Kumar

...1st Respondent in C.M.A.No.1453 of 2014

The Divisional Manager,
The Oriental Insurance Company Ltd.,
No.75, Krishnan Street, 1st Floor,
Thiruvannamalai Town and District.

...3rd Respondent in C.M.A.Nos.1451 & 1453 of 2014
& 2nd Respondent in C.M.A.No.1452 of 2014

Common Prayer:

These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Thiruvannamalai, (Additional Sub Court, Thiruvannamalai), Thiruvannamalai District made in M.C.O.P.Nos.103, 104 & 105 of 2012 dated 28.03.2013 respectively, as illegal in the interest of justice.

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For Appellant in all C.M.As : Mr.S.S.Santhoshkumar

For Respondent 1 in all C.M.As : Mr.B.Jawahar

For Respondents 2 & 3
in C.M.A.Nos.1451 & 1453 of 2014
and For Respondent 2
in C.M.A.No.1452 of 2014 : Notice not ready

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been preferred by the appellant/Transport Corporation questioning the contributory negligence and liability fixed by the Motor Accident Claims Tribunal, Thiruvannamalai, (Additional Sub Court, Thiruvannamalai), Thiruvannamalai District in its judgment and decree made in M.C.O.P.Nos.103, 104 & 105 of 2012 dated 28.03.2013 respectively.

2. The brief facts of the case are as follows:

On 26.01.2011, at about 6.15 p.m, when the three persons viz., Ramadoss, Palani and Kumar were going in a motorcycle bearing Registration No.TN 25 P 5796 driven by said Palani on Tiruvannamalai to Gingee Main Road near Sathiyamangalam Eswaran Temple, on the left side

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of the road towards East, the driver of the appellant Transport Corporation drove a bus bearing Registration No.TN 32 N 2488 in the opposite direction, suddenly turned the bus towards right side, due to which, the rear side of the bus dashed against the said motorcycle. Hence, the said Ramadoss, Palani and Kumar had fell down from the motorcycle and they had sustained injuries. In the said accident, Ramadoss got fracture of right leg knee/right femur and injuries all over the body; Palani got fracture of right femur and right tibia and injuries all over the body; and Kumar got fracture of right leg knee and injuries all over the body. Hence, they were immediately taken to the Government Hospital, Gingee for treatment. They took medical treatment for about two months. Thereafter, the said Ramadoss filed a claim petition in M.C.O.P.No.103 of 2012, Palani filed a claim petition in M.C.O.P.No.104 of 2012 and Kumar filed a claim petition in M.C.O.P.No.105 of 2012 before the Motor Accident Claims Tribunal, Thiruvannamalai, claiming a sum of Rs.5,00,000/- each as compensation towards the injuries sustained by them in the road accident occurred on 26.01.2011.

3. The appellant Transport Corporation and the respondent Insurance



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Company had filed their counter statement in M.C.O.P.Nos.103, 104 & 105 of 2012 respectively denying all the averments made by the claimants viz., Ramadoss, Palani & Kumar in their respective claim petition.

4. When M.C.O.P.Nos.103 & 105 of 2012 came up before the Tribunal, in order to prove the averments in the claim petitions, claimants viz., Ramadoss examined himself as P.W.1 & Kumar examined himself as P.W.2 and 15 documents were marked as Exs.P1 to P15 on their side. On the side of the first respondent Transport Corporation, two witnesses were examined as R.W.1 & R.W.3 and one document was marked as Ex.R2; on the side of the second respondent Palani, no witness was examined but one document was marked as Ex.R1 and on the side of third respondent Insurance Company, one witness was examined as R.W.2, however, no exhibit was marked.

5. Similarly, when M.C.O.P.No.104 of 2012 came up before the Tribunal, in order to prove the averments made in the claim petition, claimant Palani examined himself as P.W.1 and one witness viz., Dr.Ravindran was examined as P.W.2 and 10 documents were marked as Exs.P1 to P10 on the



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side of claimant. On the side of the first respondent Transport Corporation, two witnesses were examined as R.W.1 & R.W.3 and one document was marked as Ex.R1. On the side of the second respondent Insurance Company, only one witness was examined as R.W.2 and no document was marked as exhibit.

6. On appreciation of the oral and documentary evidence produced in respect of M.C.O.P.Nos.103, 104 & 105 of 2012, the Tribunal held that the accident occurred due to the negligent driving of the driver, who drove the appellant Transport Corporation Bus as well as the driver, who drove the motorcycle and partly allowed the M.C.O.P.Nos.103, 104 & 105 of 2012. The Tribunal awarded a sum of Rs.1,27,600/- as compensation to the claimant in M.C.O.P.No.103 of 2012 (R1 in C.M.A.No.1451 of 2014); Rs.1,47,000/- as compensation to the claimant in M.C.O.P.No.104 of 2012 (R2 in C.M.A.Nos.1451 & 1453 of 2014 & R1 in C.M.A.No.1452 of 2014) and Rs.2,30,400/- as compensation to the claimant in M.C.O.P.No.105 of 2012 (R1 in C.M.A.No.1453 of 2014). As far as M.C.O.P.Nos.103 & 105 of 2012 are concerned, the Tribunal held that 50% of the compensation has to



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be paid by the appellant Transport Corporation and the remaining 50% of the compensation has to be paid either individually or jointly by the respondent Palani (driver of the motorcycle) and respondent Insurance Company. So far as M.C.O.P.No.104 of 2012 is concerned, the Tribunal held that 50% of the compensation has to be paid by the appellant Transport Corporation and the balance 50% of the compensation has to be paid by the respondent Insurance Company.

7. The learned counsel for the appellant Transport Corporation submitted that the accident has occurred only due to the rash and negligent driving of the driver of motorcycle, but, in the present case, the Tribunal had fixed 50% contributory negligence on the part of the driver of appellant Transport Corporation Bus. He also submitted that at the time of accident, the driver of the motorcycle did not possess a valid driving license. Moreover, at the time of accident, the driver of the motorcycle as well as the two pillion riders who travelled in the motorcycle were not wearing helmet. Therefore, the Tribunal ought not to have fixed 50% contributory negligence on the part of the driver of appellant Transport Corporation Bus. Further, the Tribunal



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ought to have fixed the entire liability on the shoulder of the driver of motorcycle and the insurer of the motorcycle, however, without doing so, it fixed 50% liability on the appellant Transport Corporation. Therefore, the learned counsel prayed this Court to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Thiruvannamalai in M.C.O.P.Nos.103, 104 & 105 of 2012 dated 28.03.2013 respectively.

8. Per Contra, the learned counsel appearing for the first respondent in these appeals submitted that the accident was occurred due to the negligence of the driver of appellant Transport Corporation Bus as well as the driver of motorcycle. Hence, the Tribunal had rightly fixed 50% liability on the appellant Transport Corporation Bus and 50% liability on the shoulder of the driver of motorcycle and the respondent Insurance Company (insurer of the motorcycle). Therefore, the learned counsel prayed for dismissal of these appeals.

9. Heard the learned counsel on either side and perused the materials available on record.



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10. From a careful perusal of the deposition of witnesses viz., P.W.1 & P.W.2 in M.C.O.P.Nos.103 & 105 of 2012; P.W.1 in M.C.O.P.No.104 of 2012 and R.W.1 in M.C.O.P.Nos.103, 104 & 105 of 2012 and a copy of the First Information Report which was marked as Ex.P1 in M.C.O.P.Nos.103, 104 & 105 of 2012, it is crystal clear that the accident had occurred due to the negligent driving of the driver of appellant Transport Corporation Bus as well as the driver of motorcycle. Hence, the Tribunal had fixed the contributory negligence as 50-50 on the part of the driver of appellant Transport Corporation Bus and the driver of motorcycle and also, it had rightly fixed the liability as 50:50 by directing the appellant Transport Corporation to pay 50% of the compensation to the claimants and respondent Insurance Company to pay the remaining 50% of the compensation to the claimants.

11. I do not find any error in the judgment and decree passed by the Motor Accident Claims Tribunal, Thiruvannamalai in M.C.O.P.Nos.103, 104 & 105 of 2012 dated 28.03.2013 respectively. Further, I do not find any



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force in the submissions of the learned counsel for the appellant Transport Corporation. Therefore, this Court is not inclined to interfere with the judgment and decree passed by the Tribunal.

12. In the result, these Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

13. It is needless to state that the appellant Transport Corporation and the respondent-Insurance company shall deposit the entire compensation amount along with interest at 7.5% per annum from the date of petition till the date of deposit to the credit of M.C.O.P.Nos.103, 104 & 105 of 2012, if not deposited earlier, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the compensation amount directly to the respective bank account of the claimants in M.C.O.P.Nos.103, 104 & 105 of 2012, through RTGS, within a period of three weeks thereafter.

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Speaking Order (or) Non-Speaking Order

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KRISHNAN RAMASAMY, J.

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